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**Federal Communications Commission**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Dang Fishery Inc.	)	File No. EB-FIELDWR-14-00015493
F/V Rising Phoenix II, WDH3125	)	
Honolulu, Hawaii	)	NOV No. V201432860008
	)	

**NOTICE OF VIOLATION**

**Released: May 8, 2014**

By the Resident Agent, Honolulu Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's Rules,<sup>1</sup> to Dang Fishery Inc. (Dang), owner of the 406 MHz Emergency Indicating Radio Beacon (EPIRB) associated with the fishing vessel Rising Phoenix II, WDH3125, in Honolulu, Hawaii. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On April 30, 2014, an agent of the Enforcement Bureau's Honolulu Office was contacted by the U. S. Coast Guard District 14 Joint Rescue Coordination Center, requesting assistance in locating the false activation of an unregistered 406 MHz EPIRB. The agent located and inspected the 406 MHz EPIRB associated with the fishing vessel Rising Phoenix II, located at Pier 17 in the Honolulu Harbor, and observed the following violations:

- a. 47 C.F.R. § 80.89(a): "Stations must not engage in superfluous radiocommunication." Transmissions by EPIRBs are intended to be actuated manually or automatically and operated automatically as part of a ship or a survival craft station as a locating aid for survival purposes. The EPIRB associated with the fishing vessel Rising Phoenix II was activated on April 30, 2014, but there was no emergency.
- b. 47 C.F.R. § 80.1061(f): "To enhance protection of life and property it is mandatory that each 406.0 – 406.1 MHz EPIRB be registered with NOAA before

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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installation.” The 406 MHz EPIRB associated with the fishing vessel Rising Phoenix II was not registered at the time of activation.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Commission's Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Dang must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Commission's Rules, we direct Dang to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by Dang, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Honolulu Office  
POB 971030  
Waipahu, Hawaii 96797-1030

6. This Notice shall be sent to Dang Fishery Inc. at its address of record.

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Commission's Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Ryan Hagihara  
Resident Agent  
Honolulu Office  
Western Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).